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**DELIVERY BY HAND**

Ms. Susan H. Kuhbach  
Senior Office Director for Import Administration  
U.S. Department of Commerce  
Attn: Import Administration  
Central Records Unit, Room 1870  
14th Street and Constitution Avenue, N.W.  
Washington, DC 20230

**Re: Application of Countervailing Duty Law to China**

Dear Ms. Kuhbach:

On behalf of the Wire Rod Coalition, domestic manufacturers of carbon and alloy steel wire rod, we submit these comments in support of the application of the U.S. countervailing duty law to imports from China. These comments respond to the agency's request as published in the Federal Register on December 15, 2006. 71 Fed. Reg. 75,507. The Coalition is comprised of U.S. manufacturers of wire rod that have successfully pursued trade remedies against unfairly traded imports from a number of countries. The Wire Rod Coalition believes that there are strong legal and policy reasons for the Commerce Department to alter its practice and to now apply the countervailing duty ("CVD") law to imports from China.

Most notably, effective December 11, 2001, China became a member of the World Trade Organization ("WTO") and committed itself to the obligations of the international Agreement on Subsidies and Countervailing Measures ("SCM Agreement"). The Protocol of Accession signed

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by China in that regard expressly states that the SCM Agreement “shall apply” in proceedings involving imports of Chinese origin into a WTO Member . . . .” WT/L/432, para. 15 (Nov. 23, 2001). Based on this international agreement, China has no basis for contending that it should not be subject to U.S. CVD laws. Indeed, failure to apply the CVD law to China would favor it unfairly as compared to other WTO members and, as such, violate basic most-favored-nation principles. See WTO General Agreement on Tariffs and Trade, Article I.

Further, there is no exception in U.S. law from application of the statute to imports from non-market economy countries such as China. The statute provides simply that where a governmental financial contribution confers a benefit upon the recipient that is specific, there is a countervailable subsidy. 19 U.S.C. §§ 1677(5) and (5A). If these statutory criteria are met, legally the Commerce Department must find a subsidy and apply countervailing duties if the other prerequisites to imposition of such a duty are met.

The Georgetown Steel Corp. v. United States decision of the appellate court is not to the contrary. 801 F.2d 1308 (Fed. Cir. 1986). In that case, the court simply deferred to the agency’s interpretation of the law at that time. The appellate court did not hold that the statute precluded the agency from applying the CVD law to non-market economies. Moreover, as discussed above, since Georgetown Steel was decided in 1986, the statute has been changed and a new international agreement has been signed with an express Accession Protocol in which China agreed to be subject to U.S. CVD law. Under these facts, neither the agency’s past practice nor the appellate court’s decision require that the agency continue to exempt China from application of the U.S. CVD law.

Finally, the Coalition notes that difficulties the agency may have experienced in the past in measuring subsidies to China should not pose problems in measuring subsidies to China at present. The Accession Protocol expressly recognizes that alternative benchmarks, including out-of-country benchmarks, may be used to measure such subsidies. WT/L/432, para. 15(b). Further, the Commerce Department has confronted situations in market economies in which traditional means of measuring subsidies were not possible and has developed alternative mechanisms to measure such subsidies that could also be considered in measuring subsidies to Chinese companies.<sup>1</sup>

A consideration of all of these factors weighs heavily in favor of applying the U.S. countervailing duty law to imports from China at this time.

Respectfully submitted,



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<sup>1</sup> See, e.g., Issues and Decision Memorandum: Final Results of Countervailing Duty Investigation of Certain Lined Paper Products from Indonesia at 34 (Aug. 9, 2006), referenced in 71 Fed. Reg. 47,1745 (Aug. 16, 2006); Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany, 62 Fed. Reg. 54,990, 54,994 (Oct. 22, 1997).